

Exhibit 39

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA182026**Filing date: **12/19/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Mr. Thomas T Miyano		
Entity	Individual	Citizenship	UNITED STATES
Address	50 Dundee Lane Barrington Hills, IL 60010-5106 UNITED STATES		

Attorney information	Vernon W. Francissen 53 W. Jackson Blvd., Suite 1320 Chicago, IL 60604 UNITED STATES vern@francissenpatentlaw.com Phone:312-294-9980
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Applicant Information

Application No	77176918	Publication date	11/20/2007
Opposition Filing Date	12/19/2007	Opposition Period Ends	12/20/2007
Applicant	Miyano Machinery USA Inc. 940 N. Central Avenue Wood Dale, IL 60191 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. First Use: 1970/01/01 First Use In Commerce: 1970/01/01
All goods and services in the class are opposed, namely: Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77351695	Application Date	12/13/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	M		
Design Mark			
Description of	The mark consists of A stylized letter M with bird wings.		

Mark	
Goods/Services	Class 009. First use: Machine Tools, Industry machinery instruments (exclude CNC Lathe/Automatic Lathe, Automatic Tapping Machine), Power machinery instruments, Wind & Water power machinery instruments, Office machinery instruments, other machinery instruments which are not specified above, and machine accessories and elements
Related Proceedings	Cancellation no. 92047422 Cancellation no. 92048482
Attachments	77351695#TMSN.jpeg (1 page)(bytes) Notice_of_Opposition_M_MIYANO_w_ design.pdf (3 pages)(76575 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Vernon W. Francissen /s/
Name	Vernon W. Francissen
Date	12/19/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

U.S. Trademark Application No. 77/176,918: M MIYANO with design

Filing date: May 9, 2007

THOMAS TOSHIHARU MIYANO)	
)	
Opposer,)	
)	
v.)	Opposition No. TBD
)	
MIYANO MACHINERY INC.)	
)	
Applicant,)	

NOTICE OF OPPOSITION

Opposer Thomas Toshiharu Miyano, an individual located and doing business at 50 Dundee Lane, Barrington Hills, Illinois, hereby opposes registration of the mark M MIYANO with design that is the subject of U.S. Trademark Application No. 77/176,918 on the grounds that (1) the mark is confusingly similar to a mark currently in use by Opposer; and (2) use of the mark by Applicant was abandoned in 1997 and allowance of the application was, therefore, obtained by fraud on the Trademark Office. In support of the opposition, Opposer alleges as follows:

1. On information and belief, the current owner of the Trademark Application No. 77/176,918 for the mark M MIYANO with design (“the Mark”) is Applicant Miyano Machinery USA Inc.

2. Opposer owns the right to use the following mark in Japan:



3. Opposer has filed Trademark Application no. 77/351,695 to register the mark shown in paragraph 2 in the United States under 15 U.S.C. §1126(e).

4. The Mark as shown in Applicant’s Trademark application no. 77/176,918 includes the mark shown in paragraph 2.

5. The incorporation of Opposer’s mark shown in paragraph 2 into the Mark raises a likelihood of confusion when the Mark is used by Applicant in the services described in Trademark application no. 77/176,918.

6. Accordingly, Applicant's registration of the Mark will be harmful to the Opposer.

7. On information and belief, Applicant's attorney of record George Kobayashi declared in Applicant's Trademark application no. 77/176,918 that Applicant is using the mark in commerce, that the Mark was first used at least as early as January 1, 1970 and first used in commerce at least as early as January 1, 1970.

8. Opposer Thomas Toshiharu Miyano was formerly President of Miyano Machinery Inc., predecessor to Applicant Miyano Machinery USA Inc.

9. On information and belief, Applicant Miyano Machinery USA Inc. and its predecessors abandoned all use of the Mark for any goods or services in 1997.

10. On information and belief, Applicant did not use the Mark in commerce for the services described in Applicant's Trademark application no. 77/176,918 at any time from January 1, 1970, until September of 2006 when Opposer ceased employment with Applicant.

11. Trademark Registration No. 1,217,317, which Applicant claims is a prior registration owned by Applicant in Applicant's application, is the subject of pending Cancellation No. 92047422 for abandonment and fraud.

Count I: Likelihood of Confusion

12. Opposer repeats and re-alleges paragraphs 1-11 as though fully set forth herein.

13. Applicant's Mark so resembles Opposer's mark as to be likely, when applied to the services set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

Count II: Fraud

14. Opposer repeats and re-alleges paragraphs 1-11 as though fully set forth herein.

10. On information and belief, the Mark was not used in connection with the services set forth in Applicant's application from January 1, 1970 to September of 2006.

13. The allegations of use made on behalf of Applicant being knowingly false, the allowance of the Application was obtained through fraud on the Trademark Office.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Respectfully submitted,

THOMAS TOSHIHARU MIYANO,
Opposer

By: /s/ Vernon W. Francissen /s/
Vernon W. Francissen, Reg. No. 41,762
Attorney for Opposer
FRANCISSEN PATENT LAW, P.C.
53 W. Jackson Blvd., Suite #1320
Chicago, Illinois 60604
(312)294-9980 telephone
(312)275-8772 facsimile
Customer No.: 54384

Robert M. Karton
Attorney for Opposer
Robert M. Karton, Ltd.
77 W. Washington St., Suite 900
Chicago, Illinois 60602-2804
(312)214-0900 telephone
(815)301-9114 facsimile

Date: December 19, 2007

Exhibit 40

MIYANO MACHINERY INC.
940 N. CENTRAL AVE.

WOOD DALE
Ph 630-766-4141

IL 60191
Fax 630-860-7266

REMIT TO

MIYANO MACHINERY INC.
940 N. CENTRAL AVENUE
WOOD DALE, IL 60191

INVOICE

F.E.I.N. 36-2819863

Bill To 441314 TRW AUTOMOTIVE* P.O. BOX 94885 CLEVELAND OH 44101-4885				Ship To 483130 TRW - SSEG LSD STERLING PLANT 34201 VAN DYKE STERLING HTS. MI 48312 ATTN: STORE SUPPLY		
Location 1	Order Date 02/19/2003	Ship Date 06/26/2003	Invoice Date 06/26/2003	Terms NET 30	Ship Via DK TRANS-COLLECT	
Reference	Invoice Number 67564	Type INVOICE	Ordered By	Dealer PO	Customer PO A1701116620	Order Num 41613

Product	Description	Quantity	Price	Gross	Discount	Net
MACHINE REPAIR	IN HOUSE REPAIR REBUILD OF BNC-34T, S/N BN3275TU.	1			0.00	
FREIGHT	SHIPPING DK TRANSPORTATION(BRIGADOON)	1	0.00	0.00	0.00	0.00

Invoice total

Notes

Signed By: 

Service Charge: Invoice amount must be received by Miyano ON OR BEFORE 07/26/2003
or a service charge of 1.5% will be charged per month and your account
will be placed on CREDIT HOLD.

Doc#: ADA-F1611-SctReport3

Rev#: 1 / 25 Jul 2002



ISO 9002

Certificate Number 35819



Exhibit 40

Exhibit 41

Trademark/Service Mark Application, Principal Register**Serial Number: 77111956****Filing Date: 02/20/2007****The table below presents the data as entered.**

Input Field	Entered
SERIAL NUMBER	77111956
MARK INFORMATION	
*MARK	MIYANO
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MIYANO
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
APPLICANT INFORMATION	
*OWNER OF MARK	Miyano Machinery USA, Inc.
*STREET	940 North Central Avenue
*CITY	Wood Dale
*STATE (Required for U.S. applicants)	Illinois
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	60191
PHONE	312-245-7500
FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
*STATE/COUNTRY OF INCORPORATION	Illinois
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	007
DESCRIPTION	Machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor.
FILING BASIS	SECTION 1(a)

FIRST USE ANYWHERE DATE	At least as early as 01/09/1975
FIRST USE IN COMMERCE DATE	At least as early as 01/09/1975
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT12\771\119 \77111956\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	Mark as displayed on goods.
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 1473925, 1527809, and 1217317.
ATTORNEY INFORMATION	
NAME	George H. Kobayashi
ATTORNEY DOCKET NUMBER	2260-2005
FIRM NAME	Masuda, Funai, Eifert & Mitchell, Ltd.
STREET	203 N. LaSalle Street
INTERNAL ADDRESS	Suite 2500
CITY	Chicago
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60601
PHONE	312-245-7500
FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Nancy E. Sasamoto
CORRESPONDENCE INFORMATION	
NAME	George H. Kobayashi
FIRM NAME	Masuda, Funai, Eifert & Mitchell, Ltd.
STREET	203 N. LaSalle Street
INTERNAL ADDRESS	Suite 2500
CITY	Chicago
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60601
PHONE	312-245-7500

FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/George H. Kobayashi/
SIGNATORY'S NAME	George H. Kobayashi
SIGNATORY'S POSITION	Attorney at Law
DATE SIGNED	02/20/2007
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Feb 20 20:33:30 EST 2007
TEAS STAMP	USPTO/BAS-206.165.85.15-2 0070220203330459346-77111 956-360cf6e75394149f992ed 47dad13f5a684-CC-1003-200 70220202855467427

PTO Form 1478 (Rev 9/2006)

OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register**Serial Number: 77111956****Filing Date: 02/20/2007****To the Commissioner for Trademarks:****MARK:** MIYANO (Standard Characters, see mark)

The literal element of the mark consists of MIYANO. The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Miyano Machinery USA, Inc., a corporation of Illinois, having an address of 940 North Central Avenue, Wood Dale, Illinois, United States, 60191, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 007: Machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor.

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 007, the mark was first used at least as early as 01/09/1975, and first used in commerce at least as early as 01/09/1975, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Mark as displayed on goods..

Specimen File1

The applicant claims ownership of U.S. Registration Number(s) 1473925, 1527809, and 1217317.

The applicant hereby appoints George H. Kobayashi and Nancy E. Sasamoto of Masuda, Funai, Eifert & Mitchell, Ltd., Suite 2500, 203 N. LaSalle Street, Chicago, Illinois, United States, 60601 to submit this application on behalf of the applicant. The attorney docket/reference number is 2260-2005.

Correspondence Information: George H. Kobayashi
Suite 2500
203 N. LaSalle Street
Chicago, Illinois 60601
312-245-7500(phone)
312-245-7467(fax)
gkobayashi@masudafunai.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /George H. Kobayashi/ Date Signed: 02/20/2007

Signatory's Name: George H. Kobayashi

Signatory's Position: Attorney at Law

RAM Sale Number: 1003

RAM Accounting Date: 02/21/2007

Serial Number: 77111956

Internet Transmission Date: Tue Feb 20 20:33:30 EST 2007

TEAS Stamp: USPTO/BAS-206.165.85.15-2007022020333045

9346-77111956-360cf6e75394149f992ed47dad

13f5a684-CC-1003-20070220202855467427

MIYANO



Exhibit 41